

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BEATA MUSIC, LLC,

Plaintiff,

-against-

DINO DANELLI, EDDIE BRIGATI, and DOES 2-10,
inclusive,

Defendants.

DINO DANELLI and EDDIE BRIGATI,

Third-Party Plaintiffs,

-against-

FELIX CAVALIERE and GENE CORNISH,

Third-Party Defendants.

18cv6354 (JGK) (DF)

ORDER

DEBRA FREEMAN, United States Magistrate Judge:

By motion dated May 27, 2020 (Dkt. 84), Michael Barrie Kramer, Esq. (“Kramer”) and Peter Thomas Salzler, Esq. (“Salzler”), both of the law firm of Michael B. Kramer & Associates (the “Kramer Firm”), have requested that the Kramer Firm be relieved as counsel in this action for defendant and third-party plaintiff Dino Danelli (“Danelli”). After engaging in an initial review of the motion papers and holding a telephone conference with counsel, this Court realized that two attorneys with another law firm – Jeffrey D. Goldman, Esq. (“Goldman”) and Talya Goldfinger, Esq. (“Goldfinger”), of the firm of Jeffer Mangels Butler and Mitchell LLP (“Jeffer Mangels”) – were also listed on the Docket as co-counsel for Danelli. This Court therefore deferred ruling on the motion, and instructed the Jeffer Mangels attorneys to inform the Court as to whether they were also seeking leave to withdraw. (*See* Dkt. 89.) This Court having now

received a letter from Goldman (Dkt. 90), submitted on his own behalf and on behalf of Goldfinger, explaining that they had represented Danelli in California, before this case was transferred to this jurisdiction, but that they had never intended to appear for Danelli in this jurisdiction and, in fact, have not represented him in connection with any proceedings in this Court; and having considered the motion of the Kramer Firm to withdraw from representing Danelli; it is hereby ORDERED as follows:

1. The Clerk of Court is directed to terminate Goldman and Goldfinger as counsel of record for Danelli in this action, as this Court finds that they are currently listed improperly as Danelli's counsel in this jurisdiction.

2. Any outstanding discovery in this action sought from Danelli by plaintiff Beata Music, LLC ("Beata Music"), or from third-party defendants Felix Cavaliere and Gene Cornish, shall be stayed pending further order of this Court.

3. The Kramer Firm is directed to serve a copy of its motion to withdraw, including all supporting papers, on Danelli, together with a copy of this Order, by the best available means, no later than June 23, 2020, and to file proof of such service on the Docket.

4. If Danelli wishes to be heard with respect to the Kramer Firm's motion to withdraw, then, no later than July 10, 2020, Danelli should submit a response to the Court, with a copy to the Kramer Firm. If Danelli would like to email his response to the Court, then he should contact my Chambers at (212) 805-4650 and leave a voicemail message, asking for email instructions and providing a telephone number where he may be reached so that such instructions may be given to him. Alternatively, he may mail his response directly to my Chambers at the following address:

Hon. Debra Freeman, U.S. Magistrate Judge
United States Courthouse
500 Pearl Street, Room 1660
New York, New York 10007

Danelli's response may be submitted *ex parte*; in other words, it need not be served on counsel for Defendants. This Court, in its discretion, will determine whether any response it receives from Danelli should be filed publicly or if it contains sensitive information that warrants its being placed under seal. If, by July 10, 2020, this Court receives no objection to the Kramer Firm's motion from Danelli, then this Court may grant the motion as unopposed.

5. Danelli is cautioned that, if the Court permits the Kramer Firm to withdraw, and if Danelli does not retain new counsel, then he will be expected to defend against Beata Music's claims and to prosecute any third-party claims on his own behalf, without the benefit of counsel. Danelli is also cautioned that, if he chooses to proceed in this action *pro se* (i.e., without the assistance of an attorney), then he will be expected to provide his contact information to the Court; to proceed with this action diligently on a *pro se* basis; to attend all court conferences and other proceedings; and to comply, on his own, with all rules and procedures of the Court. Danelli's failure to cooperate in the pretrial discovery process or otherwise to participate in this litigation as required may result in a default judgment against him in favor of Beata Music, as well as the dismissal of his third-party claims for failure to prosecute.

Dated: New York, New York
June 16, 2020

SO ORDERED:



DEBRA FREEMAN
United States Magistrate Judge

Copies to:
All counsel (via ECF)